



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2015-0136; FRL-9947-48-Region 5]

Air Plan Approval; Minnesota; Sulfur Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Minnesota sulfur dioxide (SO₂) State Implementation Plan (SIP) for ELT Minneapolis, LLC's (ELT) River Road Industrial Center located in Fridley, Anoka County, Minnesota. The revision, submitted by the Minnesota Pollution Control Agency on February 24, 2016, updates information to reflect both administrative and equipment changes at the facility. The name of the facility has changed to BAE Technology Center (BAE). The revision will result in a significant decrease in SO₂ emissions and will support the continued attainment and maintenance of the SO₂ national ambient air quality standard (NAAQS) in the Twin Cities area.

DATES: This rule is effective on **[insert date 60 days after date of publication in the Federal Register]**, unless EPA receives adverse written comments by **[insert date 30 days after date of publication in the Federal Register]**. If EPA receives adverse

comments, EPA will publish a timely withdrawal of the rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2016-0136 at <http://www.regulations.gov> or via email to blakley.pamela@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia

submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)886-6031, hatten.charles@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background Information.
- II. How is the SIP being revised?
- III. What is EPA's analysis of the state's submission?
- IV. What action is EPA taking?
- V. Incorporation by Reference.
- VI. Statutory and Executive Order Reviews.

I. Background Information.

In the SIP, the ELT River Road Industrial Center is subject to specific restrictions as part of Minnesota's SIP for SO₂ in the Twin Cities Seven County SO₂ area (Twin Cities area).¹ The SIP for ELT's River Road Industrial Center was most recently

¹ The area was officially designated attainment of the SO₂ NAAQS on July 31, 1995 (60 FR 28339).

approved by EPA on August 3, 2010, (75 FR 148).

Currently, four fossil fuel-fired boilers (#1, #2, #3, and #4) and four emergency generators (#5, #6, #7, and #8) are the primary emission units at the facility. Boilers #1, #2, and #3 use natural gas as their primary fuel with distillate oil as a backup fuel. Boiler #4 uses natural gas for fuel. All the emergency generators use low sulfur diesel fuel. In addition, the facility is subject to fuel usage limitations to restrict the total facility SO₂ emissions.

II. How is the SIP being revised?

On February 24, 2016, the MPCA submitted a revision to Minnesota's SO₂ SIP for the ELT River Road Industrial Center. The revision, most specifically, reflects changes as a result of new ownership.

In 2015, as part of a purchase agreement, corporate ownership transferred from ELT to the Gramercy Property Trust Fridley Owner LLC (GPT Fridley). GPT Fridley changed the name of the facility from River Road Industrial Center to BAE.

Under new ownership, BAE will be used for office and warehouse space. The emergency generators are used for stand-by power, for both life-safety, and communications in the event of electrical power is lost.

The revised SIP identifies the boilers and emergency generators as both emission units (EU) and numbered equipment (EQUI). For example, boiler #4 (EU 004) is now identified as boiler #4 (EU 004/EQUI 1).

Because part of the BAE facility had been demolished, boilers #1, #2, and #3, and emergency generators #7 and #8 were decommissioned and removed from the facility. Boiler #4, and emergency generators #5 and #6 were relocated within the facility.

As part of the recent changes to the facility, boiler #4, which burns natural gas, has been modified to burn fuel oil as a backup fuel. Boiler #4 has a design capacity rated at 10.46 million British thermal units per hour (MMBtu/hr). BAE has imposed limits on boiler #4 to restrict its fuels to natural gas and distillate fuel oil, with a sulfur content limit on the fuel oil of less than or equal to 0.05 percent by weight.

Boilers #1, #2, and #3, which had design capacities rated at 69.8, 69.8, and 35.1 MMBtu/hr, respectively, have been replaced with a newer, more efficient boiler. The new boiler #5 has a design capacity rated at 19.674 MMBtu/hr. Boiler #5 is restricted to combusting natural gas and distillate fuel oil with a sulfur content limit on the fuel oil of less than or

equal to 0.05 percent by weight as a backup fuel.

III. What is EPA's analysis of the state's submission?

The SO₂ emission units operating at the BAE facility are boilers #4 and #5 and two emergency generators (#5 and #6). Boilers #1, #2, and #3, and emergency generators #7 and #8 have been removed from the facility.

Boiler #4's potential SO₂ emissions increase by 2.33 tons per year.² Boiler #5's potential SO₂ emissions using distillate fuel as a backup fuel are 4.37 tons per year.

Overall, the emissions change from replacing the three older boilers (#1, #2, and #3) with a new, more efficient boiler #5, coupled with modifications to boiler #4 to burn fuel oil as a backup fuel, result in a significant decrease in SO₂ emissions at the BAE facility. This action reduces the facility's total SO₂ emissions from 39.76 tons per year to 7.25 tons per year. The net emissions change is a reduction of 32.51 tons of SO₂ per year for the BAE facility.

SO₂ monitors near the BAE facility are currently measuring values less than 10 parts per billion (ppb), well below the 1-hour SO₂ NAAQS of 75 ppb. EPA expects the air quality in the Twin Cities area to remain protected with the revisions being

² Section 3 of Minnesota's technical support document provides a full analysis of the emission calculations and the results of the emission changes.

approved.

The revised SO₂ SIP for the BAE facility provides for reductions in allowable emissions, and therefore, strengthens the SO₂ SIP for the Twin Cities area. Thus, EPA believes the BAE facility revision request is approvable.

IV. What action is EPA taking?

EPA is approving the request by Minnesota to revise the SO₂ SIP as it applies to the BAE Technology Center. Specifically, EPA is approving into the SIP those portions of the BAE Technology Center facility Joint Title I/Title V document, permit No. 00300245-003, cited as "[Title I Condition: 40 CFR 50.4(SO₂ SIP), Title I Condition: 40 CFR 51, Title I Condition: 40 CFR pt. 52, subp. Y]." This replaces the current SO₂ SIP for ELT Minneapolis, LLC.

This revision will result in an overall reduction of SO₂ emissions at the facility, which supports the continued attainment and maintenance of the SO₂ NAAQS in the Twin Cities area.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing

a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective **[insert date 60 days after the date of publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert date 30 days after the date of publication in the Federal Register]**. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective **[insert date 60 days after the date of publication in the Federal Register]**.

V. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Minnesota regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available

through www.regulations.gov and/or at the appropriate EPA office (see the FOR FURTHER INFORMATION CONTACT section of this preamble for more information).

VI. Statutory and Executive Order Reviews.

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court

of Appeals for the appropriate circuit by **[insert date 60 days after date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: May 31, 2016.

Robert A. Kaplan,
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1220, the table in paragraph (d) is amended by removing the entry for “ELT Minneapolis, LLC” and adding in alphabetical order an entry for “BAE Technology Center” to read as follows:

§ 52.1220 Identification of plan.

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(d) * * *

EPA--APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of source	Permit No.	State effective date	EPA approval date	Comments
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BAE Technology Center	00300245-003	01/20/16	[insert the date of publication in the Federal Register], [Insert Federal Register citation]	Only conditions cited as “[Title I Condition: 40 CFR 50.4(SO2 SIP), Title I Condition: 40 CFR 51, Title I Condition: 40 CFR pt. 52, subp. Y]”
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